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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sutter)

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In re R. K. et al., Persons Coming  
Under the Juvenile Court Law.

SUTTER COUNTY DEPARTMENT OF HUMAN  
SERVICES,

Plaintiff and Respondent,

v.

R. K.,

Defendant and Appellant.

C060469

(Super. Ct. Nos.  
DPSQ995383,  
DPSQ056119,  
DPSQ056120)

At a Welfare and Institutions Code section 366.26 hearing in October 2007, the Sutter County Juvenile Court terminated the parental rights of D. K. (mother) and R. K., Sr., (father) to their three children -- nine-year-old R. K., Jr.; seven-year-old D. D. K.; and five-year-old S. K. Mother timely appealed to this court.

In an opinion filed in June 2008, we rejected mother's contentions that the evidence of adoptability was insufficient and that the juvenile court gave insufficient weight to the sibling bond. However, we found merit in mother's contention that the Sutter County Department of Human Services (the

department) had failed to comply with the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.), in that it had utilized an erroneous address for the United Keetoowah Band of Cherokee Indians. (*In re R.K. et al.* (June 30, 2008, C057364 [nonpub. opn.]; see *Nicole K. v. Superior Court* (2007) 146 Cal.App.4th 779, 783.) We ordered: "The orders terminating parental rights are conditionally vacated and the matter is remanded for the purpose of providing ICWA notice to the designated agent for the United Keetoowah Band of Cherokee Indians at its most recent address listed in the federal register. If the tribe responds that the children are Indian children or eligible for enrollment, the court shall proceed as required by ICWA. If the tribe responds that the children are not Indian children or eligible for enrollment, the court shall reinstate the order terminating parental rights." (*In re R.K.*, at p. 19.)<sup>1</sup>

On remand, the department sent notice to the United Keetoowah Band of Cherokee Indians, which timely responded that the minors were neither tribe members nor eligible for enrollment in the tribe. In November 2008, the juvenile court reinstated the orders terminating parental rights.

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<sup>1</sup> Although father had not appealed from the termination of his parental rights, our order vacating the termination of mother's parental rights had the effect of reinstating father's rights as well, inasmuch as termination of only one parent's rights would not have served the purpose of freeing the children for adoption. (Cal. Rules of Court, rule 5.725(h).) At oral argument, father explained his failure to appeal was due to his incarceration. Respondent did not challenge this fact.

Father appeals from the reinstated orders, asserting no error within the scope of our remand but raising instead the same adoptability and sibling bond issues that we had rejected in mother's appeal.<sup>2</sup>

For the reasons stated in *In re N.M.* (2008) 161 Cal.App.4th 253, 264, the juvenile court had no authority to revisit the adoptability and sibling bond issues on remand and it properly did not do so. (See *In re Terrance B.* (2006) 144 Cal.App.4th 965, 973; *In re Francisco W.* (2006) 139 Cal.App.4th 695, 707.) On appeal, father cannot assert error with respect to issues that the juvenile court had no authority to address. Because he makes no claim of error with respect to ICWA notice to the United Keetoowah Band of Cherokee Indians, the juvenile court's orders must be affirmed.

#### DISPOSITION

The judgment (orders terminating parental rights) are affirmed.

We concur: \_\_\_\_\_, J.  
ROBIE

\_\_\_\_\_, P. J.  
NICHOLSON

\_\_\_\_\_, J.  
BUTZ

<sup>2</sup> In December 2008, this court appointed counsel for father on appeal. In April 2009, we granted counsel's requests to terminate his appointment and to substitute father in propria persona as attorney in this matter. (*In re Sade C.* (1996) 13 Cal.4th 952.)